

IN THE DRAWINGS:

Applicants again respectfully request that the new drawing Fig. 3A filed March 10, 2009 be accepted and entered as supported by this application as originally filed.

REMARKS

Claims 39-42 and 44, as amended, remain herein. Claim 43 has been cancelled since its subject matter is now included in claim 39. The amendments to claims 39 and 41 are supported by applicants' disclosures including original Figs. 3A-G and Fig. 5A.

1. The Office Action (page 2, paragraph 2) said new Fig. 3A allegedly introduces new matter not disclosed in applicants' original specification or drawings. Thus, new Fig. 3A was merely "placed on file" but apparently not entered as a part of this application. Applicants hereby respectfully renew their request that new Fig. 3A be formally entered as a part of this application.

New Fig. 3A is supported by applicants' original Figs. 3A to 3G and Fig. 5A, especially by original Figs. 3E and 5A. New Fig. 3A is also supported by page 5, lines 22-26; page 7, line 10; and lines 20-24 in the applicants' specification.

A first recording area with main data, and second recording data with auxiliary information (BCA), on the optical disk are disclosed in original Fig. 3A. The reproduced signal of the second recording area is disclosed in original Fig. 3E. These Figs. 3A and 3E are explained in page 5, lines 22-26 in applicants' specification.

Next, in Fig 5A, the waveform of a reproduced signal from the second recording area is disclosed in detail. Fig. 5A is explained in page 7, lines 10 and 20-24 in the applicants' specification, as follows: "The modulating signal is recorded as pits by the 8-16 modulation mode, and a high frequency signal such as the high frequency signal part 933 in Fig. 5a is obtained. However, the BCA signal is a low frequency signal like low frequency signal part 932." The high frequency signal 933 corresponds to "main data" in the first recording area and the low frequency signal corresponds to auxiliary information (BCA) in the second recording area. Because the two

kinds of signals are obtained at the second recording area, it is clear that the first recording area and the second recording areas overlap. Otherwise, the two kinds of data could not be obtained from the same area simultaneously.

Accordingly, the content of new Fig. 3A is fully supported by applicants' original disclosure, and new Fig 3A should be entered as part of the present application.

2. Claims 39-44 were rejected under 35 U.S.C §103(a) over Sekiguchi et al U.S. Patent 5,253,241 in view of Fujiwara U.S. Patent 5,251,011. Claim 43 is canceled.

Applicants' invention, as recited in independent claims 39 and 41, includes an "auxiliary information presence indicator" having two limitations which are neither disclosed nor suggested by the cited prior art, namely:

(i) the auxiliary information presence indicator is in the control data area in the optical disk; and

(ii) the auxiliary information presence indicator indicates whether the auxiliary information is present or not in the second recording area.

These characteristics of the auxiliary information presence indicator make it easier to know whether auxiliary information is present or not in the second recording area without directly detecting the auxiliary information itself. This reduces extra movement of the optical head, and provides high efficiency in using the auxiliary information.

The Office Action says that the auxiliary information presence indicator of the applicants' invention is equivalent to Sekiguchi's Fig. 7 auxiliary signal amplitude detector. But, the auxiliary signal amplitude detector 19 in Sekiguchi is a unit in the recording apparatus not in the optical disk, which is completely different from the present applicants' (i) auxiliary information presence

indicator which is in the control data area in the optical disk. The auxiliary signal amplitude detector 19 in Sekiguchi detects the amplitude of the auxiliary signals. It cannot indicate whether the auxiliary signals are present or not without directly detecting the auxiliary signals. Applicants' system (ii) indicates that auxiliary information is present or not without detecting the auxiliary information itself.

Fujiwara discloses a common displacement detection system, but does not disclose or suggest either of characteristics (i) and (ii) of applicants' auxiliary information presence indicator.

Thus, neither Sekiguchi nor Fujiwara discloses or suggest either of the characteristics (i) and (ii) of applicants' auxiliary information presence indicator, as recited in claims 39 and 41. One of ordinary skill in this art could not combine the cited references to achieve the applicants' claimed invention. Even if the two references were combined, a system including both characteristics (i) and (ii) would not be realized.

Thus, for all the foregoing reasons there is no disclosure or teaching in either Sekiguchi or Fujiwara, or anything else in this record, that would have suggested applicants' presently claimed invention to one of ordinary skill in this art. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

For all the foregoing reasons, all claims 39-42 and 44 are believed to be fully in condition for allowance. The PTO is authorized to charge/credit any overpayments and/or underpayments of fees to Deposit Account No. 19-4293. Should the Examiner feel that additional changes would place this application in even better form for issue, the Examiner is invited to telephone applicants' undersigned attorney at the number listed below.

Respectfully submitted,

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